

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Andrew C. Gilbert
Application No. : 09/858,091 Confirmation No. : 2562
Filed : May 15, 2001
For : SYSTEMS AND METHODS FOR SHIFTING BIDS
AND OFFERS IN A TRADING INTERFACE
Group Art Unit : 3691
Examiner : Akintola, Olabode

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

Applicants request a Pre-Appeal Brief Conference for review of the Final Rejection in the above-identified application dated December 27, 2006. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reasons stated on the attached sheets.

Remarks

Applicant requests a pre-appeal brief review of the final rejection in the present application dated April 16, 2007 for the following reasons.

(A) The Examiner has erred clearly in rejecting claims 1, 15, 29, 43, 59, and 62.

1) Claims 1, 15, 29, and 43

Claims 1, 15, 29, and 43 were rejected under 35 U.S.C. § 102 as being anticipated by Buist. Claims 1 and 29 were further rejected as being anticipated by Fisher. Claim 1 and 15 each recite “receiving a selection of a plurality of bids or offers in a trading system”, and “shifting a price” or “shifting a size”, respectively, “of the plurality of bids or offers in the selection by one of an absolute value and a relative value.” Claims 29 and 43 are system claims corresponding to claims 1 and 15, respectively. Neither Fisher nor Buist disclose or otherwise suggest these features of claims 1, 15, 29, and 43.

a) The Fisher Rejections

In the April 16, 2007 Office Action, the Examiner asserts that Fisher discloses “receiving a selection of a plurality of bids or offers in a trading system” at col. 12, line 67-col.13, line 3. The Examiner is mistaken. At col. 12, line 67-col.13, line 3 Fisher discusses a proxy bidding feature with which a bidder places a bid that specifies the maximum amount the bidder is willing to pay for an item. The system will then increase incrementally the bidder’s bid price as needed up to the bidder’s maximum amount. A proxy bid is not the same as a selection of a plurality of bids or offers in a trading system.

The Examiner further asserts that Fisher discloses “shifting a price of each of the plurality of bids or offers in the selection by one of an absolute value and a relative value” at col. 12, lines 35-47; col. 13, lines 4-8. The Examiner is mistaken on this point as well. As Fisher does not disclose receiving “a selection of a plurality of bids or offers”, Fisher does not disclose shifting the price or size of each of the selected orders by a common amount, e.g., the absolute or relative value. Moreover, the section of Fisher relied on by the Examiner for the “shift” feature of claims 1 and 15 is in no way tied to proxy bids. Rather, the section relied on by the Examiner

discusses markdown and markup features, that are unrelated to the proxy bid, which are used to individually change the sales price or minimum bid price of merchandise. (Col. 12, lines 48-57). The sales price and the minimum bid price of an item being sold are not the same as bids or offers in a trading system. As such, Fisher also fails to disclose “shifting a price” or “shifting a size of the plurality of bids or offers in the selection” by a common value, e.g., an absolute or a relative value.

b) The Buist Rejections

With regard to Buist, the Examiner asserts that Buist teaches “receiving a selection of a plurality of bids or offers in a trading system” at col. 10, line 19-21; Fig. 3 RN 370. The Examiner is mistaken. At col. 10, lines 19-21 and with reference to RN 370, Buist discusses receiving a sell order and displaying the offer in an order book. Receiving a sell order is not the same as receiving “a selection of a plurality of orders in a trading system.” Moreover, merely displaying a list of orders in an order book does not imply that the listed orders are or can be selected for subsequent shifting.

The Examiner further asserts that Buist discloses “shifting a price/size of each of the plurality of bids or offers in the selection by one of an absolute value and a relative value” at col. 28, lines 63-col. 29, line 11. The Examiner is mistaken on this point as well. At col. 28, lines 63-col. 29, line 11, Buist discusses setting a user default for the incremental changes made in the negotiations screen of Fig. 42, which are applied during negotiation of a single stock trade by clicking the qty up, qty down, price up, or price down buttons. There is no discussion that the incremental changes are applied to anything other than the negotiation of a single trade. This is not the same as increasing or decreasing the trading variable the plurality of the selected orders by a common value.

2) Claims 59 and 62

Claim 59 was rejected under 35 U.S.C. § 102 as being anticipated by Fisher and in the alternative by Buist. Claim 62 was rejected under 35 U.S.C. § 103 over Fisher in view of Priest. Claims 59 and 62 recite “receiving a selection of a plurality of orders to trade at least one item via an interface comprising fields for selecting each of the plurality of orders.” As noted

above, neither Fisher nor Buist discloses or otherwise suggests receiving “a selection of a plurality of orders.”

Neither Fisher nor Buist further discloses or suggests “via an interface comprising fields for selecting each of the plurality of orders.” The Examiner has ignored this last feature in the December 27, 2006 and the April 16, 2007 Office Actions and has therefore failed to establish a prima case for the rejection.

Claims 59 and 62 further recite “increasing or decreasing the at least one trading variable of each of the selected plurality of orders by one of an absolute value and a relative value”. As discussed above, Fisher and Buist are silent with regard to changing the price and size trading variables of each of the selected plurality of orders by a common value. As such, Fisher and Buist do not disclose increasing or decreasing trading variables in general by a common value.

Conclusion

The Examiner has failed to establish a prima facie case of anticipation with regard to independent claims 1, 15, 29, 43, and 59 and obviousness with regard to independent claim 62, as well as obviousness with regard to the dependent claims identified above. Withdrawal of the rejections are respectfully requested.

Respectfully submitted,

June 11, 2007

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